

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

**FEDERAL NATIONAL
MORTGAGE ASSOCIATION**

PLAINTIFF

VS.

CIVIL ACTION NO. 1:17-cv-170-DAS

**BROOKVILLE SCHOOLHOUSE
ROAD ESTATES, LLC**

DEFENDANT

ORDER

On March 8, 2018, this Court held in abeyance and deferred ruling on Defendant Brookville Schoolhouse Road Estates, LLC's ("BSRE") Motion to Dismiss Plaintiff's Complaint for Lack of Jurisdiction [21]. Because the complaint's allegations of diversity jurisdiction were deficient, this Court granted Plaintiff seven days to seek leave to amend to correct the jurisdictional deficiencies. The Court granted Defendant seven days after Plaintiff sought leave to amend to object. Plaintiff's motion for leave to amend was due on or before March 15, 2018. It was filed that day. Defendant's response in opposition was due on or before March 22, 2018. It was not filed until March 26, 2018. Defendant's response [23] is therefore stricken as untimely, and Plaintiff's Motion for Leave to File Amended Complaint [22] is GRANTED as unopposed. *See* UNIF. LOC. R. 7(b)(3)(E).

Turning to Defendant's Motion to Dismiss [17], Plaintiff's original complaint failed to allege with particularity the citizenship of BSRE's members, including the citizenship of the members of its purported member-LLC, PF Mississippi, LLC. Plaintiff's proposed amended complaint seeks to cure that deficiency.

According to the jurisdictional allegations in the proposed amended complaint, Plaintiff is a federally chartered corporation with its principal place of business in the District of Columbia, and is therefore a citizen of the District of Columbia. Defendant is a Mississippi limited liability company whose members are PF Mississippi, LLC and Schoolhouse Road Estates, Inc. PF Mississippi, LLC is a Mississippi limited liability company whose sole member is Chaim Puretz. Chaim Puretz is an adult resident citizen of New York. Thus, PF Mississippi, LLC is a citizen of New York. Schoolhouse Road Estates, Inc. is a New York corporation with its principal place of business in New York. Schoolhouse Road Estates, Inc. is therefore a citizen of New York. Because all of its members are citizens of New York, BSRE is deemed a citizen of New York.

“[T]he federal courts have followed a general practice of granting jurisdiction in most cases and dismissing for lack of subject matter jurisdiction only under narrow circumstances.” *Nowak v. Ironworkers Local 6 Pension Fund*, 81 F.3d 1182, 1188 (2d Cir. 1996). In considering a motion to dismiss for lack of subject matter jurisdiction, “[t]he Court accepts as true all allegations and facts in the complaint.” *Anderson v. United States*, 2013 WL 3214966 at *1 (M.D. La. June 21, 2013) (citing *Ass’n of Am. Physicians & Surgeons, Inc. v. Tex. Med. Bd.*, 627 F.3d 547, 553 (5th Cir. 2010)).

Accepting the jurisdictional allegations in the proposed amended complaint as true, this Court is satisfied that diversity subject matter jurisdiction has existed in this case *ab initio*. Defendants have not controverted these jurisdictional allegations with any evidentiary particularity. Defendant’s Motion to Dismiss [17] is DENIED.

IT IS, THEREFORE, ORDERED that Plaintiff Federal National Mortgage Association is granted leave to file its Amended Complaint by April 3, 2018. Plaintiff is warned that failure to timely file its Amended Complaint may result in this case being dismissed for lack of subject matter jurisdiction.

IT IS FURTHER ORDERED that Defendant Brookville Schoolhouse Road Estates, LLC's Motion to Dismiss [17] is denied.

SO ORDERED, this the 27th day of March, 2018.

/s/ David A. Sanders
UNITED STATES MAGISTRATE JUDGE